

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

BEAU ROBERT BERNARD SCHUETTE

Plaintiff,

vs.

Civil No. 17-cv-136-JPG-CJP

NANCY A. BERRYHILL,

Defendant.¹

MEMORANDUM and ORDER

This matter is now before the Court on the parties' Agreed Motion to Remand to the Commissioner (Doc. 30). The parties agree that this case should be remanded to the agency for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g). A sentence four remand (as opposed to a sentence six remand) depends upon a finding of error and is itself a final, appealable order. *See Melkonyan v. Sullivan*, 501 U.S. 89 (1991); *Perlman v. Swiss Bank Corp. Comprehensive Disability Prot. Plan*, 195 F.3d 975, 978 (7th Cir. 1999). Upon a sentence four remand, judgment should be entered in favor of plaintiff. *Schaefer v. Shalala*, 509 U.S. 292, 302-03 (1993).

The parties stipulate that, on remand, the ALJ will consider all pertinent issues *de novo* and offer plaintiff the opportunity to offer argument. The ALJ will proceed through the sequential disability evaluation process as appropriate. If necessary, the ALJ will obtain further vocational expert testimony. The ALJ will then issue a new decision in this case.

For good cause shown, the parties' Agreed Motion to Remand (Doc. 30) is **GRANTED**. The final decision of the Commissioner of Social Security denying Beau Robert Bernard

¹ Nancy A. Berryhill is now the Acting Commissioner of Social Security. *See* <https://www.ssa.gov/agency/commissioner.html> (visited Feb. 7, 2017). She is automatically substituted as defendant in this case. *See* Fed. R. Civ. P. 25(d); 42 U.S.C. § 405(g).

Schuette's application for social security benefits is **REVERSED** and **REMANDED** to the Commissioner for rehearing and reconsideration of the evidence, pursuant to **four** of 42 U.S.C. § 405(g).

The Clerk of Court is **DIRECTED** to enter judgment in favor of plaintiff.

IT IS SO ORDERED.

DATED: December 20, 2017

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE